

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 22 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

RASHPAL KAUR,

Petitioner,

v.

PETER D. KEISLER,** Acting Attorney
General,

Respondent.

No. 04-72339

Agency No. A95-406-297

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted October 18, 2007***
San Francisco, California

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** Peter D. Keisler is substituted for his predecessor, Alberto R. Gonzales, as Acting Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: ALARCÓN and TALLMAN, Circuit Judges, and DUFFY****, Senior Judge.

1. Substantial evidence supports the IJ's determination that Rashpal Kaur has not demonstrated entitlement to asylum, withholding from removal, and protection under CAT. *See Prasad v. INS*, 47 F.3d 336, 339 (9th Cir. 1995) (reasoning that persecution must be more than threats and restrictions to liberty, and finding no persecution where petitioner, who testified credibly, was placed in a jail cell, questioned about his political affiliations, hit and kicked, and released after four to six hours). Kaur was arrested twice for a total of three days and two or three hours after a mass killing, interrogated, slapped twice, and struck, which caused minor bruising. There is no support that these arrests occurred on account of an imputed political opinion. *Cordon-Garcia v. INS*, 204 F.3d 985, 990 (9th Cir. 2000). Police questioned her to solicit eyewitness testimony that two other individuals were terrorists who had caused the violence. *Blanco-Lopez v. INS*, 858 F.2d 531, 533 (9th Cir. 1998) (reasoning that governments may legitimately detain and question individuals in the course of criminal investigations).

Similarly, Kaur made no showing that her belief was objectively reasonable that she would be persecuted if she returned to India. *Cordon-Garcia*, 204 F.2d at 990 (requiring “credible, direct, and specific evidence” to satisfy the objective

**** The Honorable Kevin Thomas Duffy, Senior United States District Judge for the Southern District of New York, sitting by designation.

prong of a claim for future persecution). Because Kaur is unable to establish the lower evidentiary threshold of entitlement to asylum, she necessarily is ineligible for withholding from removal. *See Zehatye v. Gonzales*, 453 F.3d 1182, 1190 (9th Cir. 2006). Kaur cannot sustain her burden under CAT to prove that, if she were removed, she would more likely than not be tortured. *See Kamalthas v. INS*, 251 F.3d 1279, 1284 (9th Cir. 2001).

2. The IJ did not err when he declined to consider documents that Kaur submitted after the filing deadline prescribed by the Immigration Court’s local operating procedures. *See* 8 C.F.R. § 1003 (granting authority to create rules to ensure the efficient administration of justice). “If a . . . document is not filed within the time set by the Immigration Judge, the opportunity to file that . . . document shall be deemed waived.” 8 C.F.R. § 1003.31(c). Kaur’s attorney cited only inattention to detail for failing to timely submit additional documents, and the exclusion of her untimely documents was not “so fundamentally unfair that the [she] was prevented from reasonably presenting his case” so as to establish a due process violation. *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000) (citation omitted).

PETITION FOR REVIEW DENIED.